

1 **WO**

2
3
4
5
6 **IN THE UNITED STATES DISTRICT COURT**
7 **FOR THE DISTRICT OF ARIZONA**
8

9 Paul D.H. LaBarre,

10 Appellants,

11 v.

12 Dale D. Ulrich,

13 Appellee.
14

No. CV-15-1959-PHX-DGC

ORDER

15 On September 28, 2015, DirectTV, LLC (“DirectTV”) moved to intervene as an
16 appellee in this case pursuant to Rule 8013(g) of the Federal Rules of Bankruptcy
17 Procedure. Doc. 1 at 34. On November 13, 2015, Appellants filed a pro se objection to
18 this motion. Doc. 6. Appellants’ objection will be overruled and DirectTV’s motion will
19 be granted.

20 A party seeking to intervene in a bankruptcy appeal must move for leave to
21 intervene within 30 days after the appeal is docketed. Fed. R. Bankr. P. 8013(g). The
22 motion “must concisely state the movant’s interest, the grounds for intervention, whether
23 intervention was sought in the bankruptcy court, why intervention is being sought at this
24 stage of the proceeding, and why participating as an amicus curiae would not be
25 adequate.” *Id.* Some courts also require prospective intervenors (including those
26 intervening on the side of the defendant or appellee) to demonstrate Article III standing.
27 *See, e.g., Crossroads Grassroots Policy Strategies v. Fed. Election Comm’n*, 788 F.3d
28 312, 316 (D.C. Cir. 2015). It is an open question whether such a showing is required in

1 the Ninth Circuit. *See Perry v. Prop. 8 Official Proponents*, 587 F.3d 947, 950 n.2
2 (9th Cir. 2009); *Prete v. Bradbury*, 438 F.3d 949, 956 n.8 (9th Cir. 2006).

3 DirectTV has made the required showing. Its timely motion states that it
4 “participated in the bankruptcy case, made significant concessions to its secured claim in
5 the Plan, obtained benefits from the Plan, and actively opposed the Debtors’ objections to
6 the Plan.” Doc. 1 at 35. The motion also provides a concise statement why DirectTV is
7 moving for intervention at this stage in the proceeding and why amicus curiae status
8 would be inadequate. *Id.* at 42-43. Finally, DirectTV has established Article III standing
9 by demonstrating that appellants’ victory in this proceeding would adversely affect its
10 concrete and particularized pecuniary interests.

11 Appellants do not seriously contest any of this. Instead, they argue that DirectTV
12 should be barred from participating in this proceeding because it has engaged in “bad”
13 conduct in prior litigation against Appellants. For example, Appellants contend that
14 DirectTV’s counsel incorrectly stated in a prior proceeding that one of Appellants had
15 fabricated an email, only to retract this statement upon reviewing the file. Doc. 6 at 2.
16 But whether DirectTV or its counsel engaged in misconduct in prior litigation (DirectTV
17 argues that it made an innocent and inconsequential mistake) is irrelevant to the question
18 at hand: whether DirectTV’s interest in this proceeding is sufficient to support a motion
19 to intervene under Rule 8013(g) of the Federal Rule of Bankruptcy Procedure. The Court
20 is not, and cannot be, in the business of adjudicating substantive disputes between the
21 parties at this threshold stage of the litigation. Appellants’ objection will therefore be
22 overruled.¹

23
24
25
26 ¹ Appellants objection is also untimely. Rule 8013(a)(3) of the Federal Rules of
27 Bankruptcy Procedure provides that a response to a motion to intervene must be filed
28 within seven days after service. Appellants filed their response almost a month after
DirectTV filed its motion. The Court reminds Appellants that pro se litigants are not
exempt from deadlines established by statute, rule, or regulation. *See, e.g., Zivkovic v. S. California Edison Co.*, 302 F.3d 1080, 1087 (9th Cir. 2002) (refusing to excuse pro se
litigant’s failure to request jury trial before deadline).

Dated this 7th day of December, 2015.

David G. Campbell

David G. Campbell
United States District Judge